

BDM/OIZ/DMK/LAP
F. # 2020R00291

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

v.

FRANCIS SMOOKLER,
a/k/a "Frank,"

**Proposed
Order of Restitution**

20 CR 306 (NGG)

Defendant.

Upon the application of the United States of America, by its attorney, Damian Williams, United States Attorney for the Southern District of New York, Olga Zverovich, Danielle Kudla, Louis Pellegrino and Brian Morris, Assistant United States Attorneys, of counsel; the presentence investigation report; the defendant's conviction on Count One, Counts Two through Seven, Count Sixteen, Count Seventeen, Counts Eighteen and Nineteen, and Counts Twenty and Twenty-One of the Indictment 20 Cr. 306 (NGG) (the "Indictment"); and all other proceedings in this case, it is hereby ORDERED that:

1. Amount of Restitution

FRANCIS SMOOKLER, the defendant, shall pay restitution in the total amount of \$62,006,109, pursuant to 18 U.S.C. § 3663A, to the victims of the offenses charged in Counts One through Three of the Superseding Indictment. The names and specific amounts owed to each victim are set forth in the Schedule of Victims, attached hereto as Schedule A.¹ Upon advice by

¹ In advance of trial, pursuant to the Crime Victims' Rights Act codified at 18 U.S.C. § 3771, the Court granted two sets of victims various forms of relief designed to maintain and preserve their anonymity, including directing the redaction of their true names from all exhibits and allowing them to testify under pseudonyms. See 6/3/22 Mem. and Order (the "Order"), Dkt. #220, at 7-11. In accordance with the

the United States Attorney's Office of the address or a change of address of a victim, the Clerk of Court is authorized to send payments to such address without further order of this Court.

A. Joint and Several Liability

Restitution is joint and several with the following defendants in this case: JASON KURLAND (up to the full amount of restitution), FRANGESCO RUSSO (up to the full amount of restitution), and CHRISTOPHER CHIERCHIO (up to \$30,550,000). The defendant's liability to pay restitution shall continue unabated until either the defendant has paid the full amount of restitution ordered herein, or every victim in Schedule A has recovered the total amount of each loss from the restitution paid by the defendant and all co-defendants ordered to pay the same victims.

B. Apportionment Among Victims

Pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid. Restitution shall be paid to the victims identified in the Schedule of Victims, attached hereto as Schedule A, on a pro rata basis, whereby each payment shall be distributed proportionally to each victim based upon the amount of loss for each victim, as set forth more fully in Schedule A.

2. Schedule of Payments

Pursuant to 18 U.S.C. § 3664(f)(2), in consideration of the financial resources and other assets of the defendant, including whether any of these assets are jointly controlled; projected earnings and other income of the defendant; and any financial obligations of the defendant;

anonymity protections provided under the Order, (a) these victims continue to be identified by their pseudonyms in this Order of Restitution and (b) any distributions of restitution to them by the Clerk of Court shall be directed to their respective attorneys set forth in Schedule A (as may be amended at the direction of the United States Attorney's Office), who shall apprise the United States Attorney's Office of any change in address, firm, or representation. The United States Attorney's Office has confirmed with the victims that this procedure is necessary to maintain their anonymity.

including obligations to dependents, the defendant shall pay restitution in the manner and according to the schedule that follows:

In the interest of justice, restitution will be payable in installments pursuant to 18 U.S.C. § 3572(d)(1) and (2). The defendant will commence monthly installment payments of at least fifteen percent of the defendant's gross income, payable on the fifteenth day of each month, immediately upon entry of this judgment.

This schedule is without prejudice to the Government taking enforcement actions, pursuant to 18 U.S.C. § 3613, to the extent warranted.

3. Payment Instructions

The defendant shall make restitution payments by certified check, money order, or online. Instructions for online criminal debt payments are available on the Clerk of Court's website at <https://nysd.uscourts.gov/payment-information#PaymentofCriminalDebt>. Checks and money orders shall be made payable to the "Clerk of Court" and mailed or delivered to: United States District Court, 225 Cadman Plaza East, Brooklyn, New York 11201. The defendant shall write his name and the docket number of this case on each check or money order.

4. Change in Circumstances

The defendant shall notify, within 30 days, the Clerk of Court, the United States Probation Office (during any period of probation or supervised release), and the United States Attorney's Office, 86 Chambers Street, 3rd Floor, New York, New York 10007 (Attn: Financial Litigation Unit) of (1) any change of the defendant's name, residence, or mailing address or (2) any material change in the defendant's financial resources that affects the defendant's ability to pay restitution in accordance with 18 U.S.C. § 3664(k). The defendant shall pay interest on any restitution amount of more than \$2,500.00, unless restitution is paid in full before the fifteenth day after the date of the judgment, in accordance with 18 U.S.C. § 3612(f)(1).

5. Term of Liability

The defendant's liability to pay restitution shall terminate on the date that is the later of 20 years from the entry of judgment or 20 years after the defendant's release from imprisonment, as provided in 18 U.S.C. § 3613(b). Subject to the time limitations in the preceding sentence, in the event of the death of the defendant, the defendant's estate will be held responsible for any unpaid balance of the restitution amount, and any lien filed pursuant to 18 U.S.C. § 3613(c) shall continue until the estate receives a written release of that liability.

SO ORDERED:

HONORABLE NICHOLAS G. GARAUFIS
UNITED STATES DISTRICT JUDGE

DATE

Schedule A

Victim Name or Pseudonym	Restitution Amount
Nandlall Mangal	\$4,570,000
Burl F. Williams, P.A. IOLTA Account Attn: Burl Franklin Williams, Esq. For the benefit of "Beth and Steve Smith"	\$50,594,443
McLaughlin & Stern, LLP IOLA Account Attn: Tracy Burnett, Esq. For the benefit of "Alex and Kate Wilson"	\$6,841,666
Total	\$62,006,109